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Tulare County Pesticide Regulatory Program 2006/2007 Performance Evaluation Report

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Performance Evaluation of the Tulare County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides a performance evaluation of Tulare County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal year 2006-2007. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the fiscal year, the core areas of the Tulare's County pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2006/2007.

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

No deficiencies have been identified in the Tulare County Agricultural Commissioner's pesticide use program and the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance

All staff of the Tulare County Agricultural Commissioner's office that issue restricted materials permits are experienced biologist and are knowledgeable of pesticide laws and regulations. All of the Tulare County pesticide use enforcement staff possess certificates/licenses in pesticide regulation and investigation and environmental monitoring. The experience of the biologists

range from 1-12 years in pesticide enforcement activities. Even though all the pesticide enforcement staff is qualified to issue restricted materials permits, the most experienced biologists review the permits before they are issued to make sure they are correct and complete.

Oral interviews are done with the person applying for a restricted materials permit to determine if they are the operators of the property. If the applicant possesses a private applicator certificate or a qualified applicator license, the numbers are listed on the restricted materials permits. If they are not operators of the property, letters of authorization are required to be in possession of the applicant prior to the issuance of the permit.

Tulare County also uses the Restricted Materials Management System (RMMS) to issue permits. The program checks the permit being issued and will not allow a field to be left incomplete. Restricted materials permits are amended in person using DPR's supplemental form or by fax if the authorized representative signs and return the form to the Tulare CAC. When the permit is amended, the change is made on a supplemental page and is attached to the original permit, as well as entered into the RMMS Program.

The Tulare CAC issues one-year and multiyear restricted material permits. They maintain more than 2,900 restricted materials permits and 600 Operator I.Ds. Annual training on the policies and procedures used to issue permits and properly identifying sites is given by the PUE Deputy.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for a one year and multiyear time periods;
- Permit amendments follow approved procedures.

2) Site Evaluation

Notices of intents are received by fax machine, mail, and a drop box located at the main office. Notice of intents are reviewed by certified pesticide enforcement staff that checks them against the permit in the computer. One biologist is scheduled to remain in the main office each day and is responsible to review the days NOIs and issue permits. Each biologist in the field has a mobile radio and cellular telephone, and is often contacted to check sites in sensitive areas when NOIs are submitted. Sensitive sites include parks, residential areas, schools, hospitals, and labor camps. The biologists have the authority to accept or deny notice of intents and contact the operator of the property and the pest control business when the notice of intent is denied.

More than 12,500 Notice of intents were processed in 2006/2007.

Prior to approving the use of a restricted material on a permit, the Tulare CAC checks to see if the pesticide is registered for use on that crop using DPR's pesticide label database. The biologist issuing the restricted materials permit also reviews any permit condition that may apply to the pesticides on the permit and conditions it. Aerial maps are used to identify sensitive sites that include labor camps, dairies, residential areas, roadways, and schools. These maps are issued to growers when they apply for their pesticide permits.

The Tulare CAC has developed strict permit conditions for the use of metam sodium. The permit conditions vary for the use of metam sodium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various application methods and once a certain method is denied, a second method may be allowed in making the application. All fumigant applications near sensitive sites are inspected, assuring the buffer zones are both accurate and adequate. Pre-application site inspections are conducted above the 5% for fumigant and defoliant applications around sensitive sites.

Notice of intents listing defoliants that are restricted materials to be applied near sensitive sites are evaluated and denied if the site is too close to residential areas. The application may be denied, conditioned, or be made using non-restricted pesticides. Phenoxy herbicide applications are also evaluated when a notice of intent is submitted and are denied if near sensitive crops. Cutoff dates have been implemented that have prevented crop damage and losses due to several of the phenoxy herbicides that include 2,4-D, MCPA, and Dicamba. When notice of intents are denied, the property operator and pest control business are notified and a denial form is completed and filed in the restricted materials permit file. Tulare County has also implemented permit conditions for non-restricted herbicides such as glyphosate, and carfentrazone products because of damage to sensitive crops the previous year.

The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all Notice of intents in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring:

1) Inspections

All of Tulare County's pesticide use enforcement staff possesses certificates/licenses in pesticide regulation and investigation and environmental monitoring. The experience of the biologists range from 1-12 years in pesticide enforcement activities.

Staff from the Tulare County Agricultural Commissioner's office has attended training sessions in 2006/2007 that included structural training; restricted materials permit issuance, inspection procedures training. They also participated in a weekly phone conference with DPR and other counties in regards to the upcoming fumigation regulations. Tulare CAC staff also attended training in regards to new fumigation and respiratory regulations that will be implemented. The Tulare County pesticide enforcement staff has weekly meetings to discuss pesticide issues, safety, and to review pesticide use enforcement notes written by the Deputy Commissioner.

Biologists conducting pesticide use inspections issue a violation notice for any criteria item marked "No" on the inspection forms. When worker safety non-compliances are found during an inspection, the biologists conduct a Headquarters/Employee Safety Inspection and any follow-up inspections required. The biologists also review the compliance history for the firm/person inspected and meets with the deputy before issuing a violation notice. The deputy is responsible for preparing the case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements;
- Include interviews of employers and employees;
- Adequately document violations; and
- Include appropriate follow-up inspections and procedures.

2) Investigations

All of the staff of the Tulare County Agricultural Commissioner's office that conduct pesticide enforcement investigations are designated as Agricultural Biologist III. Two biologists with more experience have been assigned to investigate all of the pesticide-related illnesses while the remaining licensed staff investigates all other episodes. All incidents and complaints associated to pesticides are documented, investigated and written reports are made on each case.

C) Enforcement Response:

When non-compliances are found during inspections and investigations, Tulare County Pesticide Enforcement staff issue violation notices, and clerical staff data

enters the information. The Deputy reviews the compliance history of each respondent and utilizes the enforcement guidelines to determine if enforcement action is warranted. The biologists are required to conduct follow-up inspections, which include a headquarter employer/employee inspection when worker safety non-compliances are found. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the enforcement response plan. The Tulare County Deputy Commissioner in charge of the pesticide enforcement program is currently working with the enforcement branch liaison on implementing the enforcement response plan that includes other enforcement options including referral of cases to DPR or the local District Attorney. When enforcement actions are not taken, a “Decision Report” is written listing the violations found, classification, and a compliance history for the respondent and an explanation.

Tulare County issued 32 agricultural civil penalties in 2006/2007.

The CAC’ enforcement program was found to:

- Initiate the appropriate action when violations are identified;
- Sufficiently support compliance, enforcement and public protection actions.

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

The Tulare County Agricultural Commissioner’s office provides pesticide safety training in English and Spanish to workers including school employees, growers, pesticide applicators, and Farm Labor Contractors each year. The course includes information on pesticide safety, first aid, container disposal, heat stress, how to read and understand pesticide labels, and updates on pesticide laws and regulations.

Staff from the Tulare County Agricultural Commissioner’s office participates in CAPCA and PAPA meetings to provide outreach on laws and regulations regarding pesticides. They also provide out reach on laws and regulations to growers at various pesticide dealers thru out the county.

Tulare CAC maintains a toll-free phone number to report suspected pesticide drift and misuse. They also distribute more than 3,500 copies of their flyer “Pesticide drift, who should you call” which is available also in English and Spanish. Staff also participates in events relative to farm worker health and safety.